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REPORT TO: MEMBERS' LIBRARY SERVICE

MEETING DATE: May 2025

BY: Executive Director of Place

SUBJECT: Response to Consultation on the Natural Environment (Scotland) Bill

1 PURPOSE

- 1.1 To note the submission of the Council's response to the consultation from the Scottish Parliament's Rural Affairs and Islands Committee on the Natural Environment (Scotland) Bill.

2 RECOMMENDATIONS

- 2.1 Members are asked to note the contents of this report and the Council's response to the consultation from the Scottish Parliament's Rural Affairs and Islands Committee, which is set out in Appendix 1 of this report.

3 BACKGROUND

Natural Environment (Scotland) Bill

- 3.1 The Natural Environment (Scotland) Bill aims to support the protection and restoration of Scotland's natural environment, and to assist the delivery of the Scottish Government's net zero and biodiversity objectives. The Scottish Government introduced the Bill "to improve biodiversity and regenerate the natural environment".
- 3.2 The Bill can be viewed on the Scottish Parliament's website at: <https://www.parliament.scot/bills-and-laws/bills/s6/natural-environment-scotland-bill>
- 3.3 The Bill has four main parts:
- Part 1 states that the Scottish Government must introduce targets to improve biodiversity;
 - Part 2 enables the Scottish Government to make and change laws relating to the Environmental Impact Assessments regime and the

Habitats Regulations, replacing a power that was lost as a result of the UK's exit from the EU;

- Part 3 updates the aims of National Parks and makes changes to the way National Parks are run; and
- Part 4 relates to the management of wild deer.

The Scottish Parliament's consultation

- 3.3 The Scottish Parliament's Rural Affairs and Islands Committee sought views on the Natural Environment (Scotland) Bill, which was introduced by the Scottish Government on 19 February 2025. The consultation, which closed on 9 May 2025, can be viewed at:

https://yourviews.parliament.scot/raine/natural-environment-scotland-bill/consult_view/

The Council's response to the consultation

- 3.5 In general, the Council's response is supportive of the proposals in the Bill, particularly the setting of statutory targets to improve biodiversity, however more details and clarity are required in regard to aspects of the deer management proposals.

- 3.6 The Council's response includes the following:

Part 1 Targets for improving biodiversity:

- The Council is supportive of statutory targets to improve biodiversity, as long as core funding to Local Authorities is provided to deliver the enhancements needed to meet targets.
- Statutory targets for biodiversity support the Council's own commitment to protect and enhance nature in East Lothian through the Council's declaration of Nature Emergency and align with the delivery of our biodiversity targets through the draft East Lothian Local Biodiversity Action Plan (currently in preparation). The Council's biodiversity targets and responsibilities include managing and maintaining designated sites, including Special Protection Areas and Sites of Special Scientific Interest in East Lothian.

Part 2 Power to modify or restate environmental impact assessment (EIA) legislation and Habitats Regulations:

- The Council supports the proposed powers for Scottish Ministers to maintain or advance standards in relation to restoring, enhancing or managing the natural environment; preserving, protecting or restoring biodiversity; and environmental assessments, to facilitate progress toward any statutory target relating to the environment, climate or biodiversity that applies in Scotland.

Part 3 National Parks:

- The Council supports the proposals in the Bill on National Parks and the provisions enabling the Scottish Government to make regulations for the issuing of fixed penalty notices for breaches of National Park byelaws.

Part 4 Deer management:

- The Council is supportive of proposed changes in the Bill to the statutory aims and purposes of deer management, and the role of NatureScot.
- However, more details and clarity are required in regard to proposed modifications for the operation of deer management plans, control agreements and control schemes.

4 POLICY IMPLICATIONS

- 4.1 The Council declared a Nature Emergency in October 2023. The setting of statutory targets for biodiversity will support the Council's own commitment to protect and enhance nature in East Lothian through our Nature Emergency response, and the delivery of our biodiversity targets through the forthcoming East Lothian Local Biodiversity Action Plan (currently in preparation). The Council already reports to Scottish Government on biodiversity progress via the 3-yearly Biodiversity Duty Report.
- 4.2 Following this consultation, if this results in national legislative or policy change in future, we will take cognisance of this.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – There are no resource implications directly arising from this consultation.
- 6.2 Personnel – None
- 6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 The Council's response to the consultation from the Scottish Parliament's Rural Affairs and Islands Committee is set out in Appendix 1 of this report and is now published online on the Scottish Parliament website at: https://yourviews.parliament.scot/raine/natural-environment-scotland-bill/consultation/view_respondent? b index=60&uuld=205398245

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DATE	27 May 2025

Appendix 1: East Lothian Council response submitted to Scottish Parliament's consultation on the Natural Environment (Scotland) Bill

Consultation questions and East Lothian Council responses:

Part 1 – Targets for improving biodiversity

1. Are statutory nature targets needed in Scotland?

Yes. East Lothian Council is supportive of statutory targets to improve biodiversity, as long as core funding to Local Authorities is provided to deliver the enhancements needed to meet targets.

Statutory targets for biodiversity support East Lothian Council's own commitment to protect and enhance nature in East Lothian through the Council's declaration of Nature Emergency, and the delivery of our biodiversity targets through the East Lothian Local Biodiversity Action Plan (LBAP; a partnership document, currently in preparation). East Lothian Council's biodiversity targets and responsibilities include managing and maintaining designated sites, including Special Protection Areas (SPAs) and Sites of Special Scientific Interest (SSSIs) in East Lothian.

2. Are you satisfied with the proposed topics for nature targets set out in the Bill?

Yes – in our view the proposed topics are all-encompassing, and the key aspects are all covered, specifically:

- the condition or extent of any habitat,
- the status of threatened species,
- the environmental conditions for nature regeneration, and
- any other matter relating to the restoration or regeneration of biodiversity as Scottish Ministers consider appropriate.

These align with our own key aspects identified through our draft East Lothian LBAP.

3. Do you have a view on the framework established in the Bill for how nature targets will be governed, including how targets will be set, monitored, reviewed and reported on?

From East Lothian Council's (ELC's) perspective, it is our view that the reporting framework for these nature targets link to our proposed LBAP and the targets achieved, and work undertaken, as it is anticipated this will also be reviewed on a yearly basis.

The Council already reports to Scottish Government on biodiversity progress via the 3-yearly Biodiversity Duty Report. We assume that the proposed reporting through this new Bill will align with the existing Biodiversity Duty Report, so there would be no 'double reporting'.

Already we report annually on our progress with tackling the Nature Emergency in East Lothian (in response to ELC's Nature Emergency declaration), delivery of actions through the Nature Restoration Fund, and anticipated annual reporting on our East Lothian LBAP actions; and, as previously mentioned, we report 3-yearly through the Biodiversity Duty Report. We anticipate a 10-yearly review of our EL LBAP, and a 10-year review of the national Scottish Biodiversity Strategy.

The commencement date for this section of the Act needs to align with the Biodiversity Duty Reporting.

We are supportive of the proposed independent review process and external scrutiny by Environmental Standards Scotland.

4. Is there anything else you would like to say about Part 1 of the Bill on nature targets?

We are supportive of the rest of the proposals in Part 1, in particular in regard to the proposed requirement for seeking and having regard to scientific advice provided by independent experts (section 2F).

Part 2 – Power to modify or restate environmental impact assessment (EIA) legislation and Habitats Regulations

1. Do you support the Scottish Government being granted powers to modify or restate EIA legislation and Habitats Regulations?

We support the proposed powers for Scottish Ministers to maintain or advance standards in relation to restoring, enhancing or managing the natural environment; preserving, protecting or restoring biodiversity; and environmental assessments, to facilitate progress toward any statutory target relating to the environment, climate or biodiversity that applies in Scotland.

2. Do you agree with the purposes set out in the Bill for which powers to amend those regimes may be used?

Yes (as above).

3. Is there anything else you would like to say about Part 2 of the Bill on powers to modify EIA legislation and Habitats Regulations?

No additional comments.

Part 3 – National Parks

1. Do you agree with proposed changes to the aims of National Parks in the Bill?

Yes – there is nothing concerning in these proposals from an East Lothian perspective.

2. Do you agree with new duties around the implementation of National Park Plans that are set out in the Bill?

We have no comment on this at this stage.

3. Do you support provisions in the Bill enabling the Scottish Government to make regulations for the issuing of fixed penalty notices for breaches of National Park byelaws?

Yes – we are supportive of this provision. In our view it is much better to localise this to the relevant (local) authority.

4. Is there anything else you would like to say about Part 3 of the Bill on National Parks?

No additional comments.

Part 4 – Deer management

1. Do you agree with the proposed changes in the Bill to the statutory aims and purposes of deer management?

Yes – The proposed changes seem comprehensive.

2. Do you have any comments on Section 11 of the Bill regarding NatureScot representation on advisory panels?

We are supportive of SNH (NatureScot) representation on advisory panels.

3. Do you agree with the proposed changes in Section 12 which changes how frequently NatureScot reviews compliance with the code of practice for deer management?

Yes – we are supportive of the proposed changes.

4. Do you support the new ground for intervention by NatureScot for the purpose of nature restoration, as set out in the Bill?

We would only support intervention where the Local Authority and/or the landowner has been informed in advance and is in agreement.

Part 4 – Deer management

1. Do you agree with modifications set out in the Bill for the operation of deer management plans, control agreements and control schemes?

In regard to the proposed modifications, we require more details and clarity, including: what measures will SNH require to be taken? how will SNH decide on whether to intervene? what scientific evidence will be required and analysed? will this be a process into which the landowner has input?

In particular we require clarification on landowner authorisation – what is the process of landowner authorisation and involvement in the proposed process? We also require clarification on section 13, proposed section “6ZA(2)(a)” – specifically the terminology “likely to cause”, as this is a matter of opinion – how will ‘likelihood’ to cause damage, injury, etc., be scientifically determined?

2. Do you agree with the proposed changes to investigatory powers for NatureScot as set out in Section 21 and Section 22 of the Bill?

Section 21 Power for SNH to enter on land – we are happy with this proposal.

Section 22 Power for SNH to require information and documents – we are happy with this proposal, as long as the powers do not become onerous without resource being provided. As a local authority, we are already subject to the requirement to provide documents under Freedom of Information legislation; we assume that this proposal relates to power to request documents from private individuals / private landowners.

3. Do you have a view on proposals in the Bill for changes to the authorisations issued by NatureScot for:

a. the culling of deer during the closed seasons

[no response]

b. the culling of deer at night

East Lothian is a lowland rural county close to large population centres, which is experiencing rapid growth in housing – the deer are dispersed; therefore we have concerns over public safety at night with regard to well-used public access rights including wild camping, star gazing, nocturnal wildlife surveying of protected species, etc.

c. the use of vehicles to drive deer

We feel this is probably not appropriate in a lowland highly populated area.

4. Do you support a new offence of shooting a deer with a shotgun, along with a corresponding ability for NatureScot to authorise the activity in appropriate circumstances?

We agree with this proposal on welfare grounds.

Part 4 – Deer management

1. Do you have any comments on Section 28 and 30 of the Bill in regard to the register of authorised persons and requirement to be fit and competent for certain authorisations?

We support the strict control of firearms and the strict control of the discharge of firearms in public places.

2. Do you agree that a new offence should be created for a person failing to report the taking or killing of stray farmed deer?

No view – East Lothian Council is not the competent authority in this case; this would be for Police Scotland.

3. Do you agree with provisions which remove the need for venison dealer licences?

Yes.

4. Is there anything else you would like to say about Part 4 of the Bill on deer management?

No additional comments.

General/aspects not in the Bill

1. Are there any areas not addressed by the Bill that you believe should be included? If so, what are they?

No, we do not have any further comments at this stage. We would be grateful for clarification in due course of the points we raise above in our submission, as needed.